

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application (C-482) No. 988 of 2011

Bhajan Singh Applicant

versus

Amar Singh Respondent

Mr. Vipul Sharma, Advocate for the applicant.

None present for the respondent.

U.C. Dhyani, J.(Oral)

By means of present application under Section 482 Cr.P.C., the applicant seeks to quash the summoning order dated 23.08.2011, passed by learned Judicial Magistrate, Khatima in criminal complaint case no. 1744 / 2011, Amar Singh vs Bhajan Singh, under Sections 323, 427, 452, 504, 506 IPC, as also the proceedings of aforesaid criminal complaint case.

2) Notice was issued to respondent no. 2. None has turned up on his behalf.

3) It appears that the complainant is not interested in prosecuting the accused / applicant.

4) Learned counsel for the applicant submitted that the impugned criminal complaint case is counter blast to the criminal case initiated by the applicant against the complainant Amar Singh and others relating to offences punishable under Sections 323, 325, 504, 506 IPC, in which the charge sheet was filed by the Investigating

Officer, registered as criminal case no. 1738 of 2011, State vs Bagicha Singh and others. It is further submitted that the applicant had himself suffered as many as eighteen injuries, and in order to pressurize him the impugned criminal case (which is not supported by the injury report) is filed. There is no reference or explanation of the injuries sustained by the applicant, in the complaint of the respondent.

5) At the time of admission of present C-482 petition, a co-ordinate bench of this Court passed following interim order, vide order dated 21.10.2011. The same reads as under:

“Having considered submissions of learned counsel for the applicant, and after going through the papers on record, including copy of charge sheet filed against the respondent Amar Singh and others, as an interim measure, it is directed that the proceedings of criminal complaint case no. 1744 of 2011, Amar Singh vs Bhajan Singh and others relating to offences punishable under Sections 323, 427, 452, 504, 506 IPC, police station Khatima, pending in the court of Judicial Magistrate, Khatima, District Udham Singh Nagar are stayed, till the next date of listing.”

6) There seems to be substance in the contention of learned counsel for the applicant that if criminal proceedings are allowed to be continued against present petitioner, the same will amount to abuse of the process of the Court.

7) It will be a futile exercise to keep present application under Section 482 Cr.P.C. pending in the court.

8) The Court can intervene in exercise of jurisdiction under Section 482 Cr.P.C. to prevent the abuse of process of law, as has been held by Hon'ble Apex Court in **Rajiv Thapar and others vs Madan Lal Kapoor (2013) 3 SCC 330; Amit Kapoor vs Ramesh Chander and another 2013 (1) SCC (Crl) 986 and Inder Mohan Goswami and another vs State of Uttarakhand and others (2008) 1 SCC (Crl) 259.**

9) Application under Section 482 Cr.P.C. is, therefore, allowed. The entire proceedings of criminal complaint case no. 1744 of 2011, Amar Singh vs Bhajan Singh and others relating to offences punishable under Sections 323, 427, 452, 504, 506 IPC, police station Khatima, pending in the court of Judicial Magistrate, Khatima, District Udham Singh Nagar are hereby set aside.

10) Since present application under Section 482 Cr.P.C. is being decided in the absence of the respondent, therefore, liberty is granted to him to move for recall of this order, if he feels aggrieved with the same.

(U.C. Dhyani, J.)

Dt. May 31, 2017.

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